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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2483**

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**Introduced by Assembly Member Coto**  
**(Coauthors: Assembly Members Beall, Caballero, Fong, Monning,**  
**and Torrico)**  
(Coauthor: Senator Maldonado)

February 19, 2010

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*An act to repeal the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) and to add Division 50 (commencing with Section 100000) to the Water Code, relating to the Santa Clara Valley Water District. An act to amend Sections 4, 26.5, and 26.7 of, and to add Section 29 to, the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Coto. Santa Clara Valley Water District.

(1) The Santa Clara Valley Water District Act establishes the Santa Clara Valley Water District and specifies its powers and purposes

relating to water supply and flood management. Under the act, a person who violates an ordinance of the district is guilty of a misdemeanor.

~~This bill would repeal that act and would enact a substantially revised codified version of that act as the Santa Clara Valley Water District Act (new act). The new act would establish the Santa Clara Valley Water District and specify its powers and purposes relating to integrated management of water supply, watershed stewardship, groundwater management, and flood management. This bill, by revising the responsibilities of the district, would impose a state-mandated local program. The bill would provide that a person who violates a district ordinance that implements the authority of the district, as revised, is guilty of a misdemeanor. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.~~

~~(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Santa Clara Valley Water District.~~

*This bill would authorize the district to take actions relating to water management, water quality, and reduction of environmental impacts in the district. The bill also would authorize the district to provide incentives to water retailers to implement specified water conservation measures, to require owners of specified facilities and agricultural water users to implement water conservation practices and measures, and to require other related measures, as specified.*

*(2) The act requires the district to annually prepare a written report on the district's activities in the protection and augmentation of the water supplies of the district, and requires the report to include information prescribed by the act and other information the board may order. The act requires the report to include a recommendation as to whether or not a groundwater charge should be levied in any zone or zones of the district during the ensuing water year and, if a groundwater charge is recommended, a proposal of the rate or rates per acre-foot of water, as specified.*

*This bill would require the report to additionally include groundwater monitoring information collected by the district. The bill would revise the required groundwater charge recommendation to instead require the district to make a recommendation as to whether a groundwater charge should remain unchanged, be decreased or increased, or be newly imposed in any zone or zones of the district.*

*(3) The act requires the board of directors of the district (board) to hold a public hearing on the annual report, and, prior to the end of the*

*water year in which the hearing is held and based upon findings and determination from the hearing, determine whether to levy a groundwater charge in any zone or zones. The act sets forth various requirements relating to the calculation of groundwater charges, including a requirement that certain increases in rates be directly related to the reduction in the affected zone groundwater levels in a specified period. The act requires a public hearing to be held at least 21 days before the date on which a new or adjusted groundwater charge is proposed to take effect.*

*This bill would instead authorize the board to impose or adjust a groundwater charge in any zone or zones and would specify that any groundwater charge approved by the board would remain in effect until the board determines that it should be eliminated, decreased, or increased. This bill would revise certain requirements relating to the calculation of groundwater charges and would delete the requirement that certain increases in groundwater charge rates be directly related to the reduction in the affected zone groundwater levels. The bill would require the public hearing to be held at least 45, rather than 21, days before the date on which the new or adjusted groundwater charge is proposed to take effect.*

*(4) By imposing new requirements on the district, this bill would create a state-mandated local program.*

~~(3)~~

*(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for specified reasons.*

*Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.*

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 4 of the Santa Clara Valley Water District*  
2     *Act (Chapter 1405 of the Statutes of 1951), as amended by Chapter*  
3     *279 of the Statutes of 2006, is amended to read:*

4     *Sec. 4. (a) The purposes of this act are to authorize the district*  
5     *to provide comprehensive water management for all beneficial*  
6     *uses and protection from flooding within Santa Clara County.*

(b) It is the intent of the Legislature that the district work collaboratively with other appropriate entities in Santa Clara County in carrying out the purposes of this act.

(c) *The Legislature finds and declares all of the following:*

(1) *Historically, the district's role was to secure additional water supplies to meet demand. However, there are limitations on the district's ability to acquire new water and the state has enacted water conservation goals.*

(2) *Authorization of demand management measures will ensure that the district has the tools and flexibility needed to address challenges to ensure a reliable and sustainable water supply future.*

~~(e)~~

(d) The district may take action to do all of the following:

(1) Protect Santa Clara County from floodwater and stormwater of the district, including tidal floodwater and the floodwater and stormwater of streams that have their sources outside the district, but flow into the district.

(2) Protect from that floodwater or stormwater the public highways, life and property in the district, and the watercourses and watersheds of streams flowing within the district.

(3) Provide for the conservation and management of floodwater, stormwater, or recycled water, or other water from any sources within or outside the watershed in which the district is located for beneficial and useful purposes, including spreading, storing, retaining, and causing the waters to percolate into the soil within the district.

(4) Protect, save, store, recycle, distribute, transfer, exchange, manage, and conserve in any manner any of the waters.

(5) Increase and prevent the waste or diminution of the water supply in the district.

(6) Obtain, retain, protect, and recycle drainage, stormwater, floodwater, or treated wastewater, or other water from any sources, within or outside the watershed in which the district is located for any beneficial uses within the district.

(7) Enhance, protect, and restore *the health of* streams, *waterways*, riparian corridors, *baylands*, *ecosystems*, and natural resources in connection with carrying out the purposes set forth in this section.

1 (8) Preserve open space in Santa Clara County and support the  
2 county park system in a manner that is consistent with carrying  
3 out the powers granted by this section.

4 (9) *Integrate management of all water resources of the district,*  
5 *in order to improve long-term water management sustainability,*  
6 *provide flexibility to address the impacts of anticipated extreme*  
7 *hydrological events, such as droughts and floods, and respond to*  
8 *climate change impacts, such as reduced snowpack, changes in*  
9 *local precipitation patterns, and rising sea level.*

10 (10) *Participate in the market of credits or other benefits related*  
11 *to the reduction of environmental impacts or improved*  
12 *comprehensive water management.*

13 (11) *Take action consistent with responsibility delegated by the*  
14 *state to urban wholesale water suppliers pursuant to Part 2.55*  
15 *(commencing with Section 10608) of Division 6 of the Water Code.*

16 (12) *Provide incentives for water conservation and otherwise*  
17 *promote efficient water use.*

18 (13) *Integrate district energy and water policies and practices,*  
19 *in order to provide energy and environmental benefits.*

20 (14) *Protect, restore, or improve water quality for all beneficial*  
21 *uses, consistent with the express authorities provided in this act.*

22 (15) *Reduce greenhouse emissions from district operations or*  
23 *sources within the district.*

24 (e) *Nothing in this act shall be construed to authorize the district*  
25 *to do either of the following:*

26 (1) *Impose measures on entities, other than the district, to*  
27 *mitigate climate impacts or to increase the production of renewable*  
28 *or alternative energy.*

29 (2) *Require or impose specific rate structures on retail water*  
30 *suppliers.*

31 SEC. 2. *Section 26.5 of the Santa Clara Valley Water District*  
32 *Act (Chapter 1405 of the Statutes of 1951), as amended by Chapter*  
33 *794 of the Statutes of 1989, is amended to read:*

34 Sec. 26.5. (a) The district shall annually prepare a written  
35 report ~~upon~~ regarding the district's activities in the protection and  
36 augmentation of ~~the~~ all water supplies of the district. The report  
37 shall include, among other information the board may order, ~~a~~ all  
38 of the following:

39 (1) A financial analysis of the district's water utility system;  
40 information.

1 (2) *Information* as to the present and future water requirements  
2 of the district, the water supply available to the district, and future  
3 capital improvement and maintenance and operating requirements;  
4 *and a method of financing those requirements; a.*

5 (3) *Groundwater monitoring information collected by the*  
6 *district.*

7 (4) A recommendation as to whether or not a groundwater charge  
8 ~~should be levied~~ *remain unchanged, be decreased or increased,*  
9 *or be newly imposed,* in any zone or zones of the district ~~during~~  
10 ~~the ensuing water year and, if any groundwater charge is~~  
11 ~~recommended,~~ *and* a proposal of a rate or rates per acre-foot for  
12 agricultural water and a rate or rates per acre-foot for all water  
13 other than agricultural water for the zone or zones, which rate or  
14 rates, as applied to operators who produce groundwater above a  
15 specified annual amount, may be subject to prescribed, fixed, and  
16 uniform increases in proportion to increases by that operator in  
17 groundwater production over the production of that operator for  
18 a prior base period to be specified by the board.

19 (b) The report shall not contain a recommendation of any  
20 increases in proportion to increased production in a zone unless  
21 based upon an analysis showing the cause of the reduction in the  
22 groundwater levels of the zone requiring the increases, with  
23 attention given to the effect of extractions of pumpers outside of,  
24 as well as within the zone, and with an evaluation of alternative  
25 measures ~~which~~ *that* may feasibly be taken within the entire  
26 affected groundwater basin and of any alternative supplies of water  
27 available for that zone, including the availability of treated water  
28 supplied by the district or treated ~~groundwaters~~ *groundwater* or  
29 ~~groundwaters~~ *groundwater* extracted in a cleanup operation and  
30 available to the district for reuse. The report shall be consistent  
31 with any conservation and reuse plan approved by the State Water  
32 Resources Control Board. The report shall also include all of the  
33 following:

34 (1) The amount of groundwater produced in the proposed zone  
35 and alternative water sources.

36 (2) The estimated costs of recharging each zone or zones.

37 (3) The estimated costs of mitigating any effects of pumping.

38 (4) Information specifying the benefits that have been received  
39 and will be received within the zone or zones where a groundwater

charge has been levied and collected, or is recommended to be levied and collected.

*SEC. 3. Section 26.7 of the Santa Clara Valley Water Act (Chapter 1405 of the Statutes of 1951), as amended by Chapter 279 of the Statutes of 2006, is amended to read:*

*Sec. 26.7. (a) (1) ~~Prior to the end of the water year in which the hearing is held, and based upon the findings and determinations from the hearing, the board shall determine whether or not a groundwater charge should be levied in any zone or zones. Based on the report produced pursuant to subdivision (a) of Section 26.5 and the findings and determinations from the hearing required pursuant to Section 26.6, the board may impose or adjust a groundwater charge in any zone or zones. Upon approval by the board, a groundwater charge shall remain in effect until the board makes a determination that it should be eliminated, decreased, or increased.~~*

*(2) ~~If the board determines that a groundwater charge should be levied, it shall levy, assess, and affix the charge or charges. A groundwater charged imposed pursuant to this section shall be levied against all persons operating groundwater-producing facilities within the zone or zones during the ensuing water year where groundwater charges are imposed.~~*

*(3) (A) The charge shall be computed at a fixed and uniform rate or rates per acre-foot for agricultural water, and at a fixed and uniform rate or rates per acre-foot for all water other than agricultural water.*

*(B) Different rates may be established in different zones, ~~except that in each zone the rate or rates for agricultural water shall be fixed and uniform.~~*

*(C) The rate or rates, as applied to operators who produce groundwater above a specified annual amount, may, except in the case of ~~any~~ a person extracting groundwater in compliance with a government-ordered program of cleanup of hazardous waste contamination, be subject to prescribed, fixed, and uniform increases in proportion to increases by that operator in groundwater production over the production of that operator for a prior base period to be specified by the board, upon a finding by the board that *anticipated* conditions of drought and water shortage require the increases. ~~The increases shall be related directly to the reduction in the affected zone groundwater levels in the same base period.~~*

(D) The rates shall be established ~~each year~~ in accordance with a budget ~~for that year~~ approved by the board pursuant to this act, or amendments or adjustments to that budget, and shall be fixed and uniform rates for agricultural water and for all water other than agricultural water, respectively, except that each rate for agricultural water shall not exceed one-fourth of the rate for all water other than agricultural water.

(b) (1) The board may also impose or adjust ~~any~~ a groundwater charge, and the rate of ~~any~~ a charge, on or before January 1 of each water year whenever the board determines that the imposition or adjustment of the charge is necessary.

(2) The board shall prepare a supplemental report to the annual report prepared pursuant to Section 26.5, explaining the reasons for the imposition or adjustment of the charge. The board shall file the supplemental report with the clerk of the board at least 45 days before the date the new or adjusted charge is proposed to take effect.

(3) (A) The clerk shall publish in a newspaper of general circulation published within the district, pursuant to Section 6061 of the Government Code, a notice of the receipt of the supplemental report and a hearing to be held on the proposed imposition or adjustment of the groundwater charge at least 31 days before the date on which the new or adjusted charge is proposed to take effect and at least 10 days before the date of the hearing.

(B) The notice shall invite any operator of a water-producing facility within the district and other interested parties to examine the supplemental report prepared pursuant to paragraph (2) at the district office.

(4) (A) A public hearing shall be held at least ~~21~~ 45 days before the date on which the new or adjusted groundwater charge is proposed to take effect in the chambers of the board.

(B) Any operator of a water-producing facility within the district may, in person or by means of a representative, present evidence at the hearing concerning the imposition or adjustment of the groundwater charge.

(c) ~~Any~~ A groundwater charge ~~levied~~ *imposed* pursuant to this section shall be in addition to any general tax or assessment levied within the district or any zone or zones thereof. *Prior to imposing or increasing a property-related groundwater charge or fee, the*



1 *district shall comply with the requirements of Article XIII D of the*  
2 *California Constitution.*

3 (d) Clerical errors occurring or appearing in the name of any  
4 person or in the description of the water-producing facility from  
5 which the production of water is otherwise properly charged, or  
6 in the making or extension of any charge upon the records that do  
7 not affect the substantial rights of the assessee or assessees, shall  
8 not invalidate the groundwater charge.

9 *SEC. 4. Section 29 is added to the Santa Clara Valley Water*  
10 *District Act (Chapter 1405 of the Statutes of 1951), to read:*

11 *Sec. 29. (a) The district may provide incentives or otherwise*  
12 *encourage retail water suppliers to implement urban water*  
13 *conservation measures that prevent the waste of water and promote*  
14 *the reasonable and efficient use and reuse of available supplies,*  
15 *including, but not limited to, water demand management measures*  
16 *identified pursuant to Section 10631 of the Water Code and*  
17 *efficient water management practices identified in Section 10608.48*  
18 *of the Water Code.*

19 *(b) The district may require the owner of a non-agricultural*  
20 *water-producing facility that is not owned by a retail water supplier*  
21 *to implement conservation practices and measures, including*  
22 *imposing tiered rates or other water conservation measures that*  
23 *prevent the waste of water and promote the reasonable and efficient*  
24 *use and reuse of available supplies.*

25 *(c) Consistent with Part 2.8 (commencing with Section 10800)*  
26 *of Division 6 of the Water Code, the district may require*  
27 *agricultural water users to comply with efficient water management*  
28 *practices.*

29 *(d) If implementation of measures, in addition to the measures*  
30 *in subdivisions (a), (b), and (c), is a precondition for the continued*  
31 *delivery of imported water to the district pursuant to state or*  
32 *federal law, the district shall have the authority to require those*  
33 *measures.*

34 *SEC. 5. No reimbursement is required by this act pursuant to*  
35 *Section 6 of Article XIII B of the California Constitution because*  
36 *the only costs that may be incurred by a local agency or school*  
37 *district are the result of a program for which legislative authority*  
38 *was requested by that local agency or school district, within the*  
39 *meaning of Section 17556 of the Government Code and Section 6*  
40 *of Article XIII B of the California Constitution.*

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**All matter omitted in this version of the bill  
appears in the bill as amended in the  
Senate, June 16, 2010. (JR11)**

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